



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

NOTICE OF ALLOWANCE AND ISSUE FEE DUE

QM12/0813

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APPLICATION NO.	FILING DATE	TOTAL CLAIMS	EXAMINER AND GROUP ART UNIT	DATE MAILED
09/101,723	08/13/98	060	LAYNO, C	3762 08/13/01
First Named Applicant	DARVISH,	35 USC 154(b) term ext. = 0 Days.		

TITLE OF INVENTION CONTROLLING HEART PERFORMANCE USING A NON-EXCITATORY ELECTRIC FIELD

ATTY'S DOCKET NO.	CLASS-SUBCLASS	BATCH NO.	APPLN. TYPE	SMALL ENTITY	FEE DUE	DATE DUE
2	20066-05	607-009.000	K47 UTILITY	YES	\$620.00	11/13/01

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. PROSECUTION ON THE MERITS IS CLOSED.

THE ISSUE FEE MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED.

HOW TO RESPOND TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

- A. If the status is changed, pay twice the amount of the FEE DUE shown above and notify the Patent and Trademark Office of the change in status, or
- B. If the status is the same, pay the FEE DUE shown above.

If the SMALL ENTITY is shown as NO:

- A. Pay FEE DUE shown above, or
- B. File verified statement of Small Entity Status before, or with, payment of 1/2 the FEE DUE shown above.

II. Part B-Issue Fee Transmittal should be completed and returned to the Patent and Trademark Office (PTO) with your ISSUE FEE. Even if the ISSUE FEE has already been paid by charge to deposit account, Part B Issue Fee Transmittal should be completed and returned. If you are charging the ISSUE FEE to your deposit account, section "4b" of Part B-Issue Fee Transmittal should be completed and an extra copy of the form should be submitted.

III. All communications regarding this application must give application number and batch number. Please direct all communications prior to issuance to Box ISSUE FEE unless advised to the contrary.

IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

PATENT AND TRADEMARK OFFICE COPY

Notice of Allowability

Application No.

09/101,723

Applicant(s)

DARVISH ET AL.

Examiner

Carl H. Layno
Carl H. Layno 7/31/01

Art Unit

3762

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance and Issue Fee Due or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Paper No. 17, 18.
2. ☒ The allowed claim(s) is/are 1-60.
3. ☒ The drawings filed on 21 July 2000 are acceptable as formal drawings.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

5. ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application. **THIS THREE-MONTH PERIOD IS NOT EXTENDABLE FOR SUBMITTING NEW FORMAL DRAWINGS, OR A SUBSTITUTE OATH OR DECLARATION.** This three-month period for complying with the REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL is extendable under 37 CFR 1.136(a).

6. ☐ Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient. A SUBSTITUTE OATH OR DECLARATION IS REQUIRED.
7. ☐ Applicant MUST submit NEW FORMAL DRAWINGS
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review(PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No. _____.
 - (b) ☐ including changes required by the proposed drawing correction filed _____, which has been approved by the examiner.
 - (c) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No. _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings. The drawings should be filed as a separate paper with a transmittal letter addressed to the Official Draftsperson.

8. ☐ Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Any reply to this letter should include, in the upper right hand corner, the APPLICATION NUMBER (SERIES CODE / SERIAL NUMBER). If applicant has received a Notice of Allowance and Issue Fee Due, the ISSUE BATCH NUMBER and DATE of the NOTICE OF ALLOWANCE should also be included.

Attachment(s)

- | | |
|--|---|
| 1 <input type="checkbox"/> Notice of References Cited (PTO-892) | 2 <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3 <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 4 <input type="checkbox"/> Interview Summary (PTO-413), Paper No. _____ |
| 5 <input type="checkbox"/> Information Disclosure Statements (PTO-1449), Paper No. _____ | 6 <input type="checkbox"/> Examiner's Amendment/Comment |
| 7 <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit of Biological Material | 8 <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9 <input type="checkbox"/> Other |

Art Unit: ***

DETAILED ACTION

1. Acknowledgment is made of applicant's extension of time and amendment which were both received by the Office on May 23, 2001. These documents have been made of record in the file as Paper Nos. 17 and 18, respectively.

2. Claims 1-60 are active.

Claim Rejections - 35 USC § 102

3. Upon further reconsideration of applicant's amendments to the claims, as discussed per an interview held with the applicant and applicant's attorneys on May 16, 2001, the Examiner is withdrawing the 35 U.S.C. 102(b) rejection of Prystowsky et al '922 which was made against claims 1-3, 10, 13, 14, 18-21, 30, 31, 35, 37, 38, 44, 47, 49, 51, and 58 in the last Office action.

4. Claims 1-60 are now deemed to be allowable over the prior art of record for the reasons given below in the Examiner's statement of reasons for allowance.

Reasons for Allowance

5. The following is an examiner's statement of reasons for allowance:

Independent claims 1, 18, 30, and 47, as amended, now distinguish over the prior art reference of Prystowsky et al '922 by stating that the delivery of a non-

Art Unit: ***

excitatory electric field to the heart is suppose to modify rather than inhibit the heart's activity. Unlike the device of Prystowsky et al, the applicant's device stimulates the heart to nurture activity in portions of the heart rather than to prevent the conduction of arrhythmic beats. Unable to find any other prior art reference(s) which show or teach these features, the Examiner deems these claims and their depending claims to be allowable over the prior art of record.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carl H. Layno whose telephone number is (703) 308-3694. The examiner can normally be reached on M-F from 8:30 AM to 5:00 PM. A voice mail message may be left if desired.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Angela Sykes, can be reached on (703) 308-5181. The current fax number for this Group is (703) 305-3590 or (703) 305-3588.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to Patent Analysts Chantae Dessau whose telephone number is (703) 605-1237 or Tiffany Tabb whose telephone number is (703) 605-1238.

Application/Control Number: 09/101,723

Page 4

Art Unit: ***

Carl H. Layno

CARL LAYNO
PRIMARY EXAMINER, AU 3762

CHL
7/31/01

Attachment for PTO-948 (Rev. 03/01, or earlier)
6/18/01

The below text replaces the pre-printed text under the heading, "Information on How to Effect Drawing Changes," on the back of the PTO-948 (Rev. 03/01, or earlier) form.

INFORMATION ON HOW TO EFFECT DRAWING CHANGES

1. Correction of Informalities -- 37 CFR 1.85

New corrected drawings must be filed with the changes incorporated therein. Identifying indicia, if provided, should include the title of the invention, inventor's name, and application number, or docket number (if any) if an application number has not been assigned to the application. If this information is provided, it must be placed on the front of each sheet and centered within the top margin. If corrected drawings are required in a Notice of Allowability (PTOL-37), the new drawings **MUST** be filed within the **THREE MONTH** shortened statutory period set for reply in the Notice of Allowability. Extensions of time may NOT be obtained under the provisions of 37 CFR 1.136(a) or (b) for filing the corrected drawings after the mailing of a Notice of Allowability. The drawings should be filed as a separate paper with a transmittal letter addressed to the Official Draftsperson.

2. Corrections other than Informalities Noted by Draftsperson on form PTO-948.

All changes to the drawings, other than informalities noted by the Draftsperson, **MUST** be made in the same manner as above except that, normally, a highlighted (preferably red ink) sketch of the changes to be incorporated into the new drawings **MUST** be approved by the examiner before the application will be allowed. No changes will be permitted to be made, other than correction of informalities, unless the examiner has approved the proposed changes.

Timing of Corrections

Applicant is required to submit the drawing corrections within the time period set in the attached Office communication. See 37 CFR 1.85(a).

Failure to take corrective action within the set period will result in **ABANDONMENT** of the application.